

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

Kevin Cronin, et al	:	Case No. 1:09CV2699
	:	
Plaintiffs	:	Judge Solomon Oliver
	:	
vs.	:	(Magistrate Judge Baughman)
	:	
The Ohio Department of	:	State of Ohio Defendants' Motion for
Transportation, et al.	:	Extension of Time to File Answer or
	:	Pleading in Response to Amended Complaint
Defendants.	:	

Now come Defendants, The Ohio Department of Transportation and Jolene M. Molitoris, Director, by and through counsel, and under Fed. Civ. R. 6(b), request a second extension of time within which Defendants may file their Answer or other pleading in response to Plaintiffs' Amended Complaint for an additional twenty-one (21) days to Monday, March 8, 2010 to coincide with the answer time which may come due for the US defendants now joined in this action, all as is more fully explained in the Memorandum attached hereto and incorporated herein by reference.

Respectfully submitted,

Richard Cordray
Attorney General of Ohio

/s/ Richard J. Makowski
Richard J. Makowski (O. S.Ct. Reg. # 0006892)
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Service

A copy of the foregoing Defendants' Motion for Extension of Time to File Answer or Pleading in Response to Amended Complaint was sent by regular U.S. mail to **Kevin Cronin**,

Plaintiff and Attorney for Plaintiff, Brown Hoist Building, 4403 St. Clair Avenue, Cleveland, OH 44103, and by electronic mail to Kevin.cronin.ohio@gmail.com; and by electronic mail to Lisa Hammond Johnson, Assistant US Attorney, United State Courthouse, 801 West Superior Avenue, Cleveland, Ohio 44113, counsel for U.S. Department of Transportation, Federal Highway Administration and its Director, Victor Mendez, on this 12th day of February, 2010.

s/ Richard J. Makowski
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Plaintiffs	:	Judge Solomon Oliver
	:	
vs.	:	(Magistrate Judge Baughman)
	:	
The Ohio Department of	:	Memorandum in Support of State
Transportation, et al.	:	Defendants' Motion For Extension of Time
	:	To File Answer or Pleading in Response to
Defendants.	:	Amended Complaint

Defendants, the Ohio Department of Transportation and Jolene M. Molitoris, its Director, (hereinafter collectively referred to as “the State defendants”) received electronic notification of Plaintiffs’ filing of an Amended Complaint in this action on December 16, 2009. The Amended Complaint added the Federal Highway Administration and its Director as Defendants and seeks joint relief against both sets of government defendants.

The State Defendants requested and were granted leave to plead until February 15, 2009, to allow the State Defendants to coordinate in the filing of an appropriate responsive pleading with the US Defendants added to this case because the amended complaint alleges joint action between the State defendants and the US defendants in making decisions in the planning of new Interstate highway facilities and in issuing Draft and Final Environmental Impact Statements as well as a Record of Decision; and seeks joint remedies against both sets of government defendants.

The sixty (60) day time period for the filing of a responsive pleading by the US Defendants runs from the date of service on the US attorney under Fed. Civ. R. 12(a)(2). While Plaintiffs have served the federal agencies added to this case (Federal Highway Administration and US Department of Transportation) on January 8; and the Attorney General of the United States on January 13; they have not processed service of a summons and copy of the amended complaint on the United States

Attorney for the Northern District of Ohio or an Assistant US Attorney or to the civil-process clerk at that US Attorney's office as required under Fed. Civ. R. (i)(1)(A). Until such service is perfected, the response time likely does not run as indicated in Fed. Civ. R. 12.

To further allow the State Defendants to consult with and coordinate appropriate responsive pleadings with the US defendants, the State Defendants ask for such additional time to coincide with the answer time of the US Defendants. Such extension will not result in any prejudice to the Plaintiffs since the case cannot move forward until the US Defendants have been properly served and are filing their answer or other response to the Amended Complaint.

Respectfully submitted,

Richard Cordray
Attorney General of Ohio

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